IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPEAL NO. 189 OF 2006

Mukesh Shantilal Doshi .. Appellant

Vs.

The State of Maharashtra .. Respondent

Mr. Sudeep Pasbola for appellant.
Mr. D.S. Mhaispurkar, APP for State
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CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : February 16, 2006.

P.C.:

1. Heard Mr. Pasbola, the learned counsel for the appellant who is one of the accused in M.C.O.C. Special Case Nos.5 of 2004 and 7 of 2004 which are being tried together. Accused Sidharth Janmejay had applied for bail before this court in Criminal Application No.1958 of 2004 and the said application came to be rejected by the learned Single Judge on 16/9/2004. While dismissing the said application the learned Single Judge observed that it would be open to the applicant to approach the Designated Court with an application contending that the provisions of the Maharashtra Control of Organised Crime Act, 1999 were not applicable and accordingly all the five accused filed applications at Exhs.13, 14, 15, 21 and 24

before the Special Court praying for their discharge from the said Special Cases. The learned Special Judge (MCOC Act) at Thane by his common order dated 4/4/2005 was pleased to reject three applications i.e. applications at Exhs.13, 14 and 21 whereas the remaining two applications at Exhs.15 and 24 came to be allowed. The present appellant had filed application at Exh.13 which was rejected by the learned Special Judge on recording the finding that there was a prima facie case made out against the present appellant for abetting an organised syndicate of crimes.

2. After the Apex court rendered its judgment in the case of Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra and anr. reported in **2005 ALL MR (Cri) 1538 (S.C.)**, the appellant filed a fresh application at Exh.48 before the Special Court raising additional points in support of his contentions that even the allegation of abetting the organised syndicate of crimes could not be prima facie established against him and this application also came to be rejected by the learned Special Judge on 15/11/2005. This order was initially challenged in Criminal Writ Petition No.117 of 2006 which was allowed to be withdrawn with liberty to file an appeal

under Section 12 of the M.C.O.C. Act and hence this appeal.

3. We have noted that the learned Special Judge has considered the role of main accused Sidharth Janmejay in number of crimes and after analysing the ratio in the case of Ranjitsing Sharma (Supra) the Special Court has considered the amplitude of the term "abet". In para 30 of the said Judgment the Apex Court noted, inter alia, as under:-

> ".....It is interesting to note that whereas Section 3(2) having regard to the definition of the term "abet" refers directly to commission of an offence or assisting in any manner an organised crime syndicate, Section 24 postulates a situation where a public servant renders any help or support both before or after the commission of an offence by a member of an organised crime syndicate or abstains from taking lawful measures under this Act."

4. Based on the prima facie evidence placed before him, the learned Special Judge noted that the

allegation against the present appellant was not of his direct involvement in committing organised crime himself or running an organised crime syndicate but there was prima facie material to show that he had abetted by lending his licenses to the main accused for manufacturing the fake drugs and the appellant is the proprietor of the pharmaceutical company by name S.S. Bharat Pharma. The reasoning given by the learned Special Judge in support of his prima facie findings cannot be faulted with and, therefore, we do not find any merit in challenging the said order.

5. The appeal is, therefore, dismissed in limine.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**